



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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November 6, 2015

Mr. Theodore Miller
831 Douglas Drive
Evansville, Indiana 47712

Re: Formal Complaint 15-FC-262; Alleged Violation of the Access to Public Records Act by the Metropolitan Evansville Transit System

Dear Mr. Miller,

This advisory opinion is in response to your formal complaint, which alleges the Metropolitan Evansville Transit System ("METS") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* METS has responded via Mr. Dirck Stahl, Esq., Counsel for METS. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-3-3, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on October 11, 2015.

BACKGROUND

Your complaint dated September 29, 2015 alleges the Metropolitan Evansville Transit System violated the Access to Public Records Act by failing to provide the records you requested.

On September 16, 2015, you attempted to obtain information related to an incident which occurred on September 11, 2015. You were informed the matter was being investigated and the findings could not be discussed.

Counsel contends no denial took place because there was no request for records.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." See Ind. Code § 5-14-3-1. The Metropolitan Evansville Transit System is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the



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right to inspect and copy METS's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

Counsel is correct no formal denial had taken place. Your inquiries on September 11 and 16, 2015 do not appear to have risen to the level of a request for information.

When a request is for a public record, there should be a tangible document to give to the requester, i.e. an individual's driving record or any other type of actual document with information. In contrast, a request for information is not asking for a specific document; instead the request requires the [agency] to extrapolate information - such as an address - from an existing document.

See Informal Opinion 15-INF-23.

Because you did not request a specific record and merely asked a question to an employee, your request was for information. Requests for information are outside the scope of the APRA and this office. If you are seeking an actual document, the public access laws would indeed apply.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Metropolitan Evansville Transit System has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to be "LH Britt", written over a horizontal line.

Luke H. Britt
Public Access Counselor

Cc: Mr. Dirck Stahl, Esq.